

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,685

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating his Medicaid and establishing a spend-down eligibility amount for him. The issue is whether the petitioner's income is in excess of the maximum established eligibility level.

FINDINGS OF FACT

1. The petitioner, who lives with his wife, is a recipient of Social Security disability benefits in the amount of \$1341.10 per month. \$46.10 is deducted each month for his Medicare co-payment.
2. The petitioner is in treatment for both depression and epilepsy. His medications cost about \$420 per month. Without these medications, his health care providers expect his condition to deteriorate rapidly.
3. The petitioner cannot afford to buy the medications himself. He has monthly expenses for mortgage, taxes, utilities, insurance, telephone and food which require at least \$1200 per month.
4. The petitioner was notified in May of 1995, that his income of \$1341.10 was too much to make him Medicaid eligible. In its calculations, the Department allowed him a deduction of \$20 per month for his disability. No other deductions were found applicable. The balance of \$1321.10 was compared to a protected income level for two persons of \$691 per month and he was determined to have \$630.10 per month in excess income. That monthly excess income figure was multiplied by six months to determine that the petitioner must have incurred \$3,780.60 in medical bills in a six month period before he can regain his Medicaid eligibility. The petitioner was given a \$276.60 per six- month credit towards his spend-down reflecting the \$46.10 per month he pays for Medicare payments, resulting in an as yet unmet amount of \$3,504. He was advised to keep track of his medical bills and to present them in order to meet the spenddown.

ORDER

The decision of the Department is affirmed.

REASONS

Under the Medicaid regulations at M242(1), Social Security income must be included in determining eligibility for Medicaid benefits. Certain deductions, primarily for child support or work expenses, are allowed in order to obtain a net countable income figure, including a \$20 blanket disregard from unearned income for aged, blind or disabled persons. M243.1(2). No deductions are allowed for household expenses.

In this case, the Department followed the applicable regulations to calculate the petitioner's countable income of \$1321.10. Under the procedures adopted by the Department, a two person coverage group consisting of two adults, one of whom is disabled, elderly or blind, cannot be eligible unless it has \$691 per month or less (outside Chittenden County). P2420-B.

However, under M402, "a person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more than any of the income tests for which he/she may be eligible may qualify..." if he can "show that his or her Medicaid group has paid or incurred medical expenses...at least equal to the difference between its countable income and its Protected Income Level." A six month accounting period is employed to make this determination. M414. Deductions can be made for eligible medical expenses but only health insurance expenses and medically necessary over-the counter drugs can be anticipated in making the calculations; all other expenses can only be deducted as they are actually incurred. M414. Therefore, the Department is correct in only anticipating and deducting the petitioner's health insurance. His prescription medications under the regulations can only be deducted as incurred. As the Department's decision is correct, it must be upheld by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule 19.

Few would argue that the petitioner will have an easy time paying \$450 per month in medications with a monthly income of \$1350 and monthly expenses of \$1200. The Medicaid program, however, only allows persons in the petitioner's position to receive Medicaid outright if they have less than \$691 per month on which to live. The petitioner, even with his very limited income is not covered by such a program until he has medical expenses which, in the program's view, his could not be covered by that income. The petitioner is urged to carefully keep track of all his medical expenses to facilitate his eventual eligibility. He is also encouraged to see if the Department has another program, such as General Assistance, which might be able to help him pay for medications.

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